IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Bheeka Ram Vs. State of Rajasthan
S.B. CR. REVISION PETITION NO.776/2006

Against order dated 24.06.2006 passed by Addl. Sessions Judge (Fast Track) No.3, Jodhpur in Criminal Appeal No.2/2006 – Bheeka Ram Vs. State of Rajasthan.

DATE OF ORDER :: 5th December, 2006.

PRESENT

HON'BLE MR.JUSTICE SATYA PRAKASH PATHAK

Mr. M.S. Sheikh for petitioner.
Mr. V.R. Mehta, Public Prosecutor.

BY THE COURT:

The present criminal revision petition under Sec.397/401 Cr.P.C. has been filed against the judgment dated 24.06.2006 passed by Addl. Sessions Judge (Fast Track) No.3, Jodhpur in Criminal Appeal No.2/2006 confirming the judgment of learned ACJM (Sr.Div.) Bilara dated 28.04.2006 passed in Criminal Regular Case

No.587/2004 convicting the accused petitioner for the offence under Sec.494 IPC and sentencing him to 3½ years rigorous imprisonment and imposing fine of Rs.1000/-, in default to further undergo six months' simple imprisonment.

It appears that on filing a written report in the Police Station, Bilara by Prahlad s/o Rana Ram, case was registered under Sec.394 IPC and after investigation chargesheet was filed in the Court and cognizance was taken against the petitioner. Accused denied the charge. The prosecution, in support of its case, examined three witnesses and in documentary evidence tendered several documents. Subsequently, accused filed an application and accepted his guilt. In the statement recorded under Sec.313 Cr.P.C. also the accused admitted the prosecution case. The learned trial Court, after hearing both sides, on the basis of evidence collected on record, convicted the accused petitioner and sentenced him under Sec.394 IPC as aforesaid. The appeal preferred by accused petitioner has been dismissed by the learned appellate Court vide its judgment dated 24.06.2006. Hence this revision petition.

The learned counsel for the petitioner submits that he does not want to press the revision petition on merits but since the accused petitioner has been sentenced for a period of three and half years and out of that period he has already remained in jail for more than two and half years, therefore, if remission is counted, it will be nearly quarter to three years' imprisonment, which he has suffered. According to the learned counsel, in the above circumstances when there is no record of previous conviction against the accused petitioner, his sentence may be reduced to the period already undergone by him.

The learned Public Prosecutor has supported the impugned judgments passed by the courts below.

The question, which requires consideration in this case is, as to whether in the facts and circumstances of the case when the accused himself pleaded guilty and has remained in Jail from 05.07.2004 to till date then any leniency is required to be adopted in his case?

The facts, as appear, reveal that accused admitted his guilt and no previous conviction has been reported against him. The matter has become quite old and substantive sentence awarded to him has already been undergone by him, therefore, in my humble opinion, the ends of justice would be met in case the sentence awarded by the trial Court is reduced to the period already undergone and he be set at liberty if not required in any other case.

Accordingly, the petition is partly allowed and while maintaining the conviction of the accused petitioner passed by learned trial Court and affirmed by appellant Court, the sentence awarded to him is reduced to the period already undergone. He be set at liberty if not required in any other case. To that extent, the orders passed by the courts below stand modified.

The revision petition stands disposed of accordingly.

(**SATYA PRAKASH PATHAK**) **J**.

/jpa